



General Assembly

February Session, 2000

***Raised Bill No. 5883***

LCO No. 2642

Referred to Committee on Environment

Introduced by:  
(ENV)

***An Act Concerning The Open Space Trust Fund.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1       Section 1. Section 1. (NEW) There is established a Charter Oak Open  
2       Space Trust Fund, within the General Fund, into which shall be  
3       deposited thirty-five per cent of any surplus funds from the fiscal years  
4       ending June 30, 2000, June 30, 2001, and June 30, 2002, but not more  
5       than fifty million dollars in any one year. Once deposited into the trust  
6       fund, the funds shall be nonlapsing and shall be separate from bond  
7       funds provided for any similar programs or purposes.

8       Sec 2. (NEW) (a) There is established a charter oak open space grant  
9       program account, within the General Fund, that shall consist of any  
10      funds required or allowed by law to be deposited into the account  
11      including, but not limited to, gifts or donations received for the  
12      purposes of section 7-131d of the general statutes, as amended by this  
13      act. Sixty per cent of any funds deposited into the Charter Oak Open  
14      Space Trust Fund established under section 1 of this act shall be  
15      deposited into the grant program established under this section.  
16      Investment earnings credited to the assets of the account shall become  
17      part of the assets of the account. Any balance remaining in the account

18 at the end of any fiscal year shall be carried forward in the account for  
19 the fiscal year next succeeding. Payments from the account shall be  
20 made upon authorization by the Commissioner of Environmental  
21 Protection. Neither the proceeds of any general obligation bonds of the  
22 state nor the investment earnings of any such proceeds shall be  
23 deposited in the account. The commissioner may use funds in the  
24 account for purposes of section 7-131d of the general statutes, as  
25 amended by this act. The program shall provide grants to  
26 municipalities and nonprofit land conservation organizations to  
27 acquire land or permanent interests in land for open space and  
28 watershed protection and to water companies, as defined in section  
29 25-32a of the general statutes, to acquire and protect land eligible to be  
30 classified as class I or class II land, as defined in section 25-37c of the  
31 general statutes, after acquisition. All land or interest in land acquired  
32 under this program shall be preserved in perpetuity predominantly in  
33 its natural scenic and open condition for the protection of natural  
34 resources while allowing for recreation consistent with such protection  
35 and, for lands acquired by water companies, while allowing for the  
36 improvements necessary for the protection or provision of potable  
37 water.

38 (b) Grants made under the charter oak open space grant program  
39 account established by this section to municipalities, nonprofit land  
40 conservation organizations and water companies, as defined in section  
41 16-1 of the general statutes, as amended, shall account for not less than  
42 fifty per cent of the outlays from the Charter Oak Open Space Trust  
43 Fund established under section 1 of this act, provided, if sufficient  
44 qualifying applications have not been received from municipalities,  
45 nonprofit land conservation organizations or water companies prior to  
46 July 1, 2003, then grants may be made from remaining funds for either  
47 the charter oak open space program account or the recreation and  
48 natural heritage trust program established under section 23-74 of the  
49 general statutes.

50 Sec. 3. Section 7-131d of the general statutes is repealed and the

51 following is substituted in lieu thereof:

52 (a) There is established the protected open space and watershed  
53 land acquisition grant program. The program shall provide grants to  
54 municipalities and nonprofit land conservation organizations to  
55 acquire land or permanent interests in land for open space and  
56 watershed protection and to water companies, as defined in section 25-  
57 32a, to acquire and protect land which is eligible to be classified as  
58 class I or class II land, as defined in section 25-37c, after acquisition. All  
59 lands or interests in land acquired under this program shall be  
60 preserved in perpetuity predominantly in their natural scenic and  
61 open condition for the protection of natural resources while allowing  
62 for recreation consistent with such protection and, for lands acquired  
63 by water companies, allowing for the improvements necessary for the  
64 protection or provision of potable water.

65 (b) Grants may be made under the [program] protected open space  
66 and watershed land acquisition grant program established under  
67 subsection (a) of this section or under the charter oak open space grant  
68 program account established under section 2 of this act to match funds  
69 for the purchase of land or permanent interests in land which purchase  
70 meets one of the following criteria: (1) Protects land identified as being  
71 especially valuable for recreation, forestry, fishing, conservation of  
72 wildlife or natural resources; (2) protects land which includes or  
73 contributes to a prime natural feature of the state's landscape,  
74 including, but not limited to, a shoreline, a river, its tributaries and  
75 watershed, an aquifer, mountainous territory, ridgelines, an inland or  
76 coastal wetland, a significant littoral or estuarine or aquatic site or  
77 other important geological feature; (3) protects habitat for native plant  
78 or animal species listed as threatened or endangered or of special  
79 concern, as defined in section 26-304; (4) protects a relatively  
80 undisturbed outstanding example of a native ecological community  
81 which is now uncommon; (5) enhances and conserves water quality of  
82 the state's lakes, rivers and coastal water; (6) preserves local  
83 agricultural heritage; or (7) in the case of grants to water companies,

84 protects land which is eligible to be classified as class I land or class II  
85 land after acquisition. The commissioner may make a grant under the  
86 [program] protected open space and watershed land acquisition grant  
87 program established under subsection (a) of this section or under the  
88 charter oak open space grant program account established under  
89 section 2 of this act to a distressed municipality or a targeted  
90 investment community, as defined in section 32-9p, for restoration or  
91 protection of natural features or habitats on open space already owned  
92 by the municipality, including, but not limited to, wetland or wildlife  
93 or plant habitat restoration or restoration of other sites to a more  
94 natural condition, or replacement of vegetation, provided the total  
95 amount of grants to such municipalities for such purposes may not  
96 exceed twenty per cent of the total amount of grants made in any fiscal  
97 year.

98 (c) No grant may be made under the [program] protected open  
99 space and watershed land acquisition grant program established under  
100 subsection (a) of this section or under the charter oak open space grant  
101 program account established under section 2 of this act for: (1) Land to  
102 be used for commercial purposes or for recreational purposes  
103 requiring intensive development, including, but not limited to, golf  
104 courses, driving ranges, tennis courts, ballfields, swimming pools and  
105 uses by motorized vehicles, provided trails or pathways for  
106 pedestrians or nonmotorized vehicles shall not be considered intensive  
107 development; (2) land with environmental contamination over a  
108 significant portion of the property provided grants for land requiring  
109 remediation of environmental contamination may be made if  
110 remediation will be completed before acquisition of the land or any  
111 interest in the land and an environmental assessment approved by the  
112 Commissioner of Environmental Protection has been completed and  
113 no environmental use restriction applies to the land; (3) land which has  
114 already been committed for public use; (4) development costs,  
115 including, but not limited to, construction of ballfields, tennis courts,  
116 parking lots or roadways; (5) land to be acquired by eminent domain;  
117 or (6) reimbursement of in-kind services or incidental expenses

118 associated with the acquisition of land. This subsection shall not  
119 prohibit the continuation of agricultural activity, the activities of a  
120 water company for public water supply purposes or the selling of  
121 timber incidental to management of the land which management is in  
122 accordance with approved forest management practices provided any  
123 proceeds of such timber sales shall be used for management of the  
124 land. In the case of land acquired under this section which is  
125 designated as a state park, any fees charged by the state for use of such  
126 land shall be used by the state in accordance with the provisions of  
127 title 23 or section 22a-27h.

128 (d) Any municipality or group of contiguous municipalities may  
129 apply to the Commissioner of Environmental Protection for a grant-in-  
130 aid of a program established to preserve or restrict to conservation or  
131 recreation purposes the use of open space land. Such grant shall be  
132 used for the acquisition of land, or easements, interests or rights  
133 therein, or for the development of such land, or easements, interests or  
134 rights therein, for purposes set forth in this section, or both, in  
135 accordance with a plan of development adopted by the municipal  
136 planning commission of the municipality within which the land is  
137 located. Any application for a grant-in-aid relating to land located  
138 beyond the territorial limits of the applying municipality shall be  
139 subject to approval of the legislative body of the municipality within  
140 whose territorial limits the land is located. A municipality applying for  
141 aid under this section, may designate its conservation commission as  
142 its agent to make such application.

143 (e) At closing, a permanent conservation easement, as defined in  
144 section 47-42, shall be executed for any property purchased with grant  
145 funds, which conservation easement shall provide that the property  
146 shall remain forever predominantly in its natural and open condition  
147 for the specific conservation, open space or water supply purposes for  
148 which it was acquired provided any improvements or changes to the  
149 property shall be supportive of such condition or purposes. The  
150 permanent conservation easement shall be in favor of the state acting

151 through the Commissioner of Environmental Protection, or his  
152 designee, which may be a municipality or a land conservation  
153 organization. In the case of land acquired for water supply protection,  
154 a water company may hold an easement in conjunction with the state  
155 or a nonprofit entity to protect the water supply. Such permanent  
156 conservation easement shall also include a requirement that the  
157 property be made available to the general public for appropriate  
158 recreational purposes, the maintenance of which recreational access  
159 shall be the responsibility of the grantee provided such access shall not  
160 be required for land which will be classified as class I or class II land  
161 by a water company if such access is inconsistent with the provision of  
162 pure drinking water to the public. An exception to the provision of  
163 public recreational access may be made at the discretion of the  
164 Commissioner of Environmental Protection when provision for public  
165 access would be unreasonably detrimental to the wildlife or plant  
166 habitat or other natural features of the property or, for land where  
167 development rights have been purchased, would be disruptive of  
168 agricultural activity occurring on the land. Any instrument conveying  
169 an interest in land less than fee which interest is purchased under this  
170 section shall provide for the permanent preservation of the land and  
171 public access consistent with the land's use or protection and with any  
172 restrictions prescribed by the Department of Public Health in order to  
173 protect a public drinking water source.

174 Sec. 4. Subsection (a) of section 7-131e of the general statutes, as  
175 amended by public act 99-58, is repealed and the following is  
176 substituted in lieu thereof:

177 (a) Grant award decisions under the protected open space and  
178 watershed land acquisition grant program established under section  
179 7-131d, as amended by this act, or under the charter oak open space  
180 grant program account established under section 2 of this act shall be  
181 made by the Commissioner of Environmental Protection at least  
182 semiannually. All complete and eligible grant applications shall be  
183 acted upon by the commissioner as soon as practicable. A single

184 project may receive a grant in more than one grant cycle, subject to  
185 future availability of funds and subject to the limitations set forth in  
186 this section and sections 23-78, 12-498 and 7-131d, as amended by this  
187 act. Up to two per cent of the grant funds may be used for  
188 administrative expenses including, but not limited to: (1) Contractors  
189 to assist the Department of Environmental Protection in the review  
190 and evaluation of grant proposals and baseline data collection for  
191 conservation easements; (2) appraisals or appraisal reviews; and (3)  
192 preparation of legal and other documents. Administrative expenses  
193 may not be used for staff salaries. Not later than September 1, 1998, for  
194 the protected open space and watershed land acquisition grant  
195 program established under section 7-131d, as amended by this act, and  
196 not later than September 1, 2000, for the charter oak open space grant  
197 program account established under section 2 of this act, the  
198 commissioner shall develop written guidelines and a ranking system  
199 for consistency and equity in the distribution of grant awards under  
200 [this program] the protected open space and watershed land  
201 acquisition grant program established under section 7-131d, as  
202 amended, or under the charter oak open space grant program account  
203 established under section 2 of this act based on the criteria listed in  
204 subsections (b) and (c) of section 7-131d, as amended by this act.  
205 Consistent with such criteria, additional consideration shall be given  
206 to: (A) Protection of lands adjacent to and complementary to adjacent  
207 protected open space land or class I or class II water company lands;  
208 (B) equitable geographic distribution of the grants; (C) proximity of a  
209 property to urban areas with growth and development pressures or to  
210 areas with open space deficiencies and underserved populations; (D)  
211 protection of land particularly vulnerable to development  
212 incompatible with its natural resource values including the protection  
213 of a public water supply source; (E) consistency with the state's plan of  
214 conservation and development; (F) multiple protection elements, such  
215 as water quality and supply protection, scenic preservation and  
216 farmland preservation; (G) the extent to which the presence of already  
217 constructed buildings or other manmade improvements diminish or

218 overshadow the natural resource value of a proposed acquisition, or its  
219 value relative to its cost; and (H) preservation of forest lands and  
220 bodies of water which naturally absorb significant amounts of carbon  
221 dioxide.

222       Sec. 5. Subsection (b) of section 7-131g of the general statutes is  
223 repealed and the following is substituted in lieu thereof:

224       (b) The Commissioner of Environmental Protection may make  
225 grants under the open space and watershed land acquisition [program]  
226 grant program established under section 7-131d, as amended by this  
227 act, and under the charter oak open space grant program account  
228 established under section 2 of this act. Grants may be made to the open  
229 space and watershed land acquisition grant program to: (1)  
230 Municipalities for acquisition of land for open space under  
231 subdivisions (1) to (6), inclusive, of subsection (b) of section 7-131d, as  
232 amended by this act, in an amount not to exceed fifty per cent of the  
233 fair market value of a parcel of land or interest in land proposed to be  
234 acquired; (2) municipalities for acquisition of land for class I and class  
235 II water supply protection under subdivision (5) of subsection (b) of  
236 said section 7-131d, in an amount not to exceed sixty-five per cent of  
237 such value; (3) nonprofit land conservation organizations for  
238 acquisition of land for open space or watershed protection under  
239 subdivisions (1) to (6), inclusive, of subsection (b) of said section 7-  
240 131d, in an amount not to exceed fifty per cent of such value; (4) water  
241 companies for acquisition of land under subdivision (7) of subsection  
242 (b) of said section 7-131d, in an amount not to exceed forty per cent of  
243 such value provided if such a company proposes in a grant application  
244 that it intends to allow access to such land for recreational uses, such  
245 company shall seek approval of the Commissioner of Public Health for  
246 such access; and (5) distressed municipalities or targeted investment  
247 communities, as defined in section 32-9p, for acquisition of land for  
248 open space under subdivisions (1) to (6), inclusive, of subsection (b) of  
249 said section 7-131d, in an amount not to exceed sixty-five per cent of  
250 such value or for performance of work in the restoration, enhancement



251 or protection of resources in an amount not to exceed fifty per cent of  
252 the cost of such work. Applicants for grants under the program shall  
253 provide a copy of the application to the chairperson of the review  
254 board established under section 7-131e, as amended by this act. The  
255 board shall provide comments to the commissioner on pending  
256 applications as it deems necessary. Grants may be made under the  
257 charter oak open space grant program account established under  
258 section 2 of this act to municipalities, nonprofit land conservation  
259 organizations and water companies, as defined in section 16-1, as  
260 amended. Such grants may be made: (A) In an amount not to exceed  
261 eighty per cent of the purchase price of land to be permanently  
262 preserved that was previously designated class II or class III land, as  
263 defined in section 25-37c; (B) in an amount not to exceed seventy per  
264 cent of the purchase price for purchases of other utility lands in excess  
265 of one hundred fifty acres or with a fair market value of not less than  
266 two million dollars made by municipalities or nonprofit land  
267 conservation organizations; and (C) in an amount not to exceed fifty  
268 per cent of the purchase price of land to be purchased by a water  
269 company for water supply protection purposes and to be designated as  
270 class I or class II land.

271 Sec. 6. (NEW) There is established a charter oak state parks and  
272 forest account, within the General Fund, into which shall be deposited  
273 forty per cent of any funds deposited into the Charter Oak Open Space  
274 Trust Fund established under section 1 of this act. Funds in the state  
275 parks and forest account shall be used to acquire land that: (1) Meets  
276 the acquisition requirements of section 23-75 of the general statutes; (2)  
277 is in excess of one hundred fifty acres in size; and (3) is either classified  
278 as class II or class III land, as defined in section 25-37c of the general  
279 statutes, or is currently owned by an electric utility company and  
280 subject to divestiture under section 16-244f of the general statutes.

281 Sec. 7. Subdivision (7) of section 23-73 of the general statutes is  
282 repealed and the following is substituted in lieu thereof:

283 (7) "Program" means the Connecticut recreation and natural  
284 heritage trust program created by [this section and] sections 23-74 to  
285 23-80, inclusive, and the charter oak state parks and forest account  
286 established under section 6 of this act.

287 Sec. 8. Section 47 of public act 99-173 is amended by adding  
288 subsection (c) as follows:

289 (NEW) (c) A credit that is allowed under this section, with respect to  
290 any taxable year commencing on or after January 1, 2000, but is not  
291 used by a taxpayer may be carried forward to each of the successive  
292 income years until such credit is fully taken. In no case shall a credit  
293 that is not used be carried forward for a period of more than ten years.

294 Sec. 9. (NEW) (a) Prior to July 1, 2002, no water company, as defined  
295 in section 16-1 of the general statutes, as amended, may convey any  
296 class I, class II or class III land, as defined in section 25-37c of the  
297 general statutes, that is (1) over ten acres in size, or (2) is adjacent to  
298 any such class I, class II or class III land.

299 (b) The provisions of subsection (a) of this section shall not preclude  
300 the conveyance of land if a valid contract for such sale was entered into  
301 prior to the effective date of this act.

302 Sec. 10. This act shall take effect from its passage, except that  
303 sections 1 to 8, inclusive, shall take effect July 1, 2000.

***Statement of Purpose:***

To increase the amount of open space.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*